

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 502** Session of
2019

INTRODUCED BY BARTOLOTTA, HUGHES, HAYWOOD, SCHWANK, LEACH,
BAKER, COLLETT, KILLION, A. WILLIAMS, FARNESE, COSTA, STREET,
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J. WARD, MARCH 25, 2019

SENATOR BAKER, JUDICIARY, AS AMENDED, MAY 1, 2019

AN ACT

1 Amending the act of November 24, 1998 (P.L.882, No.111),
2 entitled "An act providing for victims' rights; imposing
3 penalties; establishing remedies; establishing the Office of
4 Victim Advocate, the Bureau of Victims' Services, the
5 Victims' Services Advisory Committee, the State Offender
6 Supervision Fund and other funds; and making repeals," in
7 preliminary provisions, further providing for definitions; in
8 crime victims, further providing for rights, for
9 responsibilities of victims of crime under basic bill of
10 rights, for responsibilities of State and local law
11 enforcement agencies and for responsibilities of prosecutor's
12 office; in administration, further providing for office, for
13 powers and duties of victim advocate and for powers and
14 duties of Office of Victims' Services; in compensation,
15 further providing for persons eligible for compensation, for
16 filing of claims for compensation, for minimum allowable
17 claim, for determination of claims, for emergency awards, for
18 awards and for confidentiality of records; in services,
19 further providing for eligibility of victims; in financial
20 matters, further providing for costs and for costs for
21 offender supervision programs; and, in enforcement, further
22 providing for subrogation.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The definitions of "crime," "family,"
26 "intervenor," "local law enforcement agency," "loss of
27 earnings," "out-of-pocket loss" and "personal injury crime" in

1 section 103 of the act of November 24, 1998 (P.L.882, No.111),
2 known as the Crime Victims Act, are amended and the section is
3 amended by adding definitions to read:

4 Section 103. Definitions.

5 The following words and phrases when used in this act shall
6 have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 * * *

9 "Campus police." As defined in section 302 of the act of
10 November 29, 2004 (P.L.1383, No.180), known as the Uniform Crime
11 Reporting Act.

12 * * *

13 "Crime." An act which was committed:

14 (1) In this Commonwealth by a person, including a
15 juvenile, without regard to legal exemption or defense which
16 would constitute a crime under the following:

17 (i) The act of April 14, 1972 (P.L.233, No.64),
18 known as The Controlled Substance, Drug, Device and
19 Cosmetic Act.

20 (ii) 18 Pa.C.S. (relating to crimes and offenses).
21 30 Pa.C.S. § 5502 (relating to operating
22 watercraft under influence of alcohol or controlled
23 substance).

24 30 Pa.C.S. § 5502.1 (relating to homicide by
25 watercraft while operating under influence).

26 The former 75 Pa.C.S. § 3731 (relating to driving
27 under influence of alcohol or controlled substance).

28 75 Pa.C.S. § 3732 (relating to homicide by
29 vehicle).

30 75 Pa.C.S. § 3732.1 (relating to aggravated

1 assault by vehicle).

2 75 Pa.C.S. § 3733 (relating to fleeing or
3 attempting to elude police officer).

4 75 Pa.C.S. § 3734 (relating to driving without
5 lights to avoid identification or arrest).

6 75 Pa.C.S. § 3735 (relating to homicide by
7 vehicle while driving under influence).

8 75 Pa.C.S. § 3735.1 (relating to aggravated
9 assault by vehicle while driving under the
10 influence).

11 75 Pa.C.S. § 3742 (relating to accidents
12 involving death or personal injury).

13 75 Pa.C.S. § 3742.1 (relating to accidents
14 involving death or personal injury while not properly
15 licensed) if the nature and circumstances of the
16 offense committed are substantially similar to an
17 offense under 75 Pa.C.S. § 3742.

18 75 Pa.C.S. Ch. 38 (relating to driving after
19 imbibing alcohol or utilizing drugs).

20 (iii) The laws of the United States.

21 (2) Against a resident of this Commonwealth which would
22 be a crime under paragraph (1) but for its occurrence in a
23 location other than this Commonwealth.

24 (3) Against a resident of this Commonwealth which is an
25 act of international terrorism.

26 * * *

27 "Family." When used in reference to an individual:

28 (1) anyone related to that individual within the third
29 degree of consanguinity or affinity;

30 (2) anyone maintaining a common-law relationship prior

1 to January 2, 2005, with that individual; or

2 (3) anyone residing in the same household with that
3 individual.

4 "Financial support." Includes the loss of court-ordered
5 child or spousal support payments if the victim is deprived of
6 money as a direct result of a crime.

7 * * *

8 "Intervenor." An individual who goes to the aid of another
9 and suffers physical or mental injury or death as a direct
10 result of acting not recklessly to prevent the commission of a
11 crime, to lawfully apprehend a person reasonably suspected of
12 having committed such crime or to aid the victim of such crime.
13 The term does not include an enforcement officer or investigator
14 injured in the performance of his or her duties, eligible for
15 benefits under the act of June 28, 1935 (P.L.477, No.193),
16 referred to as the Enforcement Officer Disability Benefits Law,
17 or under the act of June 2, 1915 (P.L.736, No.338), known as the
18 Workers' Compensation Act.

19 * * *

20 "Local law enforcement agency." A police department of a
21 city, borough, incorporated town or township or campus police.

22 "Loss of earnings." [**Includes**] An economic loss resulting
23 from an injury or death to a victim of a crime that has not been
24 and will not be reimbursed from any other source. The term
25 includes the loss of the cash equivalent of one month's worth of
26 Social Security, railroad retirement, pension plan, retirement
27 plan, disability, veteran's retirement, [**court-ordered child**
28 **support or court-ordered spousal**] loss of support payments if
29 the payments are the primary source of the victim's income or
30 other similar benefit, and the victim is deprived of money as a

1 direct result of a crime.

2 "Loss of support." The loss of verifiable financial support
3 the direct victim would have contributed to surviving dependents
4 that is lost due to the death of the direct victim as a direct
5 result of a crime.

6 * * *

7 "Out-of-pocket loss." The term includes the following losses
8 which shall be reimbursed at a rate set by the Office of
9 Victims' Services:

10 (1) expenses for unreimbursed and unreimbursable
11 expenses or indebtedness incurred for medical care,
12 nonmedical remedial care and treatment as approved by the
13 Office of Victims' Services or other services;

14 (2) expenses for counseling, prosthetic devices,
15 wheelchairs, canes, walkers, hearing aids, eyeglasses or
16 other corrective lenses or dental devices reasonably
17 necessary as a result of the crime upon which the claim is
18 based and for which the claimant either has paid or is
19 liable;

20 (3) expenses related to the reasonable and necessary
21 costs of cleaning the crime scene of a private residence or
22 privately owned motor vehicle. "Cleaning" means to remove or
23 attempt to remove stains or blood caused by the crime or
24 other dirt or debris caused by the processing of the crime
25 scene;

26 (4) expenses resulting from the temporary or permanent
27 relocation of a direct victim and individuals residing in the
28 household of the direct victim due to the incident forming
29 the basis of the victim's claim when there is an immediate
30 need to protect the safety and health of the victim and

1 individuals residing in the household, as verified by a
2 medical provider, human services provider or law enforcement;

3 (5) expenses for physical examinations and materials
4 used to obtain evidence; or

5 (6) other reasonable expenses which are deemed necessary
6 as a direct result of the criminal incident.

7 Except as otherwise provided, the term does not include property
8 damage or pain and suffering.

9 "Personal injury crime." An act, attempt or threat to commit
10 an act which would constitute a misdemeanor or felony under the
11 following:

12 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

13 18 Pa.C.S. Ch. 27 (relating to assault).

14 18 Pa.C.S. Ch. 29 (relating to kidnapping).

15 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

16 18 Pa.C.S. § 3301 (relating to arson and related
17 offenses).

18 18 Pa.C.S. Ch. 37 (relating to robbery).

19 18 Pa.C.S. Ch. 49 Subch. B (relating to victim and
20 witness intimidation).

21 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft
22 while operating under influence).

23 The former 75 Pa.C.S. § 3731 (relating to driving under
24 influence of alcohol or controlled substance) in cases
25 involving bodily injury.

26 75 Pa.C.S. § 3732 (relating to homicide by vehicle).

27 75 Pa.C.S. § 3732.1 (relating to aggravated assault by
28 vehicle).

29 75 Pa.C.S. § 3733 (relating to fleeing or attempting to
30 elude police officer).

1 75 Pa.C.S. § 3734 (relating to driving without lights to
2 avoid identification or arrest).

3 75 Pa.C.S. § 3735 (relating to homicide by vehicle while
4 driving under influence).

5 75 Pa.C.S. § 3735.1 (relating to aggravated assault by
6 vehicle while driving under the influence).

7 75 Pa.C.S. § 3742 (relating to accidents involving death
8 or personal injury).

9 75 Pa.C.S. § 3742.1 (relating to accidents involving
10 death or personal injury while not properly licensed) if the
11 nature and circumstances of the offense committed are
12 substantially similar to an offense under 75 Pa.C.S. § 3742.

13 75 Pa.C.S. Ch. 38 (relating to driving after imbibing
14 alcohol or utilizing drugs) in cases involving bodily injury.
15 The term includes violations of any protective order issued as a
16 result of an act related to domestic violence. THE TERM INCLUDES <--
17 A CRIME OF VIOLENCE AS DEFINED IN 42 PA.C.S. § 9714(G) (RELATING
18 TO SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES).

19 * * *

20 Section 2. Section 201(11) of the act is amended and the
21 section is amended by adding a paragraph to read:

22 Section 201. Rights.

23 Victims of crime have the following rights:

24 * * *

25 (1.1) If eligible to apply, to be notified of the
26 Address Confidentiality Program under 23 Pa.C.S. Ch. 67
27 (relating to domestic and sexual violence victim address
28 confidentiality).

29 * * *

30 (11) To have assistance in the preparation of,

1 submission of and follow-up on financial assistance claims to
2 the [bureau] Office of Victims' Services.

3 * * *

4 Section 3. Sections 211, 212(b), (c) and (e) and 213(a), (d)
5 and (g) of the act are amended to read:

6 Section 211. Responsibilities of victims of crime under basic
7 bill of rights.

8 [A] Except as provided for victims enrolled in the Address
9 Confidentiality Program under 23 Pa.C.S. Ch. 67 (relating to
10 domestic and sexual violence victim address confidentiality), a
11 victim shall provide a valid address and telephone number and
12 any other required information to all agencies responsible for
13 providing information and notice to the victim. The victim shall
14 be responsible for providing timely notice of any changes in the
15 status of the information. The information provided shall not be
16 disclosed to any person other than a law enforcement agency,
17 corrections agency or prosecutor's office without the prior
18 written consent of the victim.

19 Section 212. Responsibilities of State and local law
20 enforcement agencies.

21 * * *

22 (b) Notice.--

23 (1) [Law enforcement agencies shall within 48 hours of
24 reporting give notice to the direct victim or, if
25 appropriate, a member of the direct victim's family of the
26 availability of crime victims' compensation. The notice
27 required under this subsection shall be in writing and in a
28 manner and form developed by the Office of Victims'
29 Services.] The law enforcement officer responding to or
30 investigating an incident shall provide basic information on

1 the rights and services available for crime victims and the
2 availability of crime victims' compensation to the direct
3 victim or, if appropriate, a member of the direct victim's
4 family. The information shall be provided when the officer
5 has first contact with the victim or as soon as reasonably
6 possible. The information required under this subsection
7 shall be in a written notice in a manner or form developed by
8 the Office of Victims' Services.

9 (2) [Law enforcement agencies shall provide basic
10 information on the rights and services available for crime
11 victims. The information shall be in writing and shall be
12 provided to the victim within 24 hours of the law enforcement
13 agency's first contact with the victim in a manner and form
14 to be developed by the Office of Victims' Services.] Law
15 enforcement agencies shall be responsible for ensuring that
16 officers provide the notification required under paragraph
17 (1).

18 (c) Application.--[The written notification provided for in
19 subsection (b) (1) shall be accompanied by one copy of the
20 application form for crime victims' compensation. Application
21 forms shall be supplied by the Office of Victims' Services to
22 law enforcement agencies. A record of the date of notification
23 shall be maintained by the law enforcement agency.] The Office
24 of Victims' Services shall maintain a mailing list of all local
25 law enforcement agencies and provide law enforcement agencies
26 with forms by which they can order [additional] claim forms. The
27 Office of Victims' Services shall also provide updates to law
28 enforcement agencies on changes which affect their
29 responsibilities under this act.

30 (e) [Forms.--The form developed by the Office of Victims'

1 Services shall be attached to the police report and shall
2 include a victim checkoff signifying that the information has
3 been provided to the crime victim.] Confirmation.--The law
4 enforcement officer responding to or investigating an incident
5 shall indicate on the police report that the information
6 required under subsection (b) was provided to the victim.

7 * * *

8 Section 213. Responsibilities of prosecutor's office.

9 (a) Forms.--The prosecutor's office shall provide the victim
10 of a personal injury crime with all forms developed pursuant to
11 sections 214 and 215 with exception to State cases whereupon the
12 victim advocate shall provide all necessary forms.

13 * * *

14 (d) Release.--[In a personal injury crime, the prosecutor's
15 office shall provide notice of the opportunity to submit input
16 into State correctional release decisions, to receive notice of
17 any release of an adult from a State or local correctional
18 facility and to receive notice of the commitment to a mental
19 health institution from a State or local correctional
20 institution.] The following shall apply:

21 (1) In a personal injury crime, the prosecutor's office
22 shall provide the victim advocate with victim information on
23 all personal injury cases when a State sentence is imposed:

24 (i) so the victim advocate may provide notice of
25 opportunity to submit input into State correctional
26 release decisions;

27 (ii) to provide notice of any release of an adult
28 from a State correctional institution; and

29 (iii) to provide notice of the commitment to a
30 mental health institution from a State correctional

1 institution.

2 (2) In a personal injury crime, the prosecutor's office
3 shall provide notice of any release of an adult from a local
4 correctional institution and provide notice of the commitment
5 to a mental health institution from a local correctional
6 institution.

7 * * *

8 (g) Assistance.--The prosecutor's office shall provide
9 assistance to the victim in all of the following:

10 (1) Preparation of statements under section 201(5).

11 (2) Preparation of, submission of and follow-up on
12 financial assistance claims filed with the [bureau] Office of
13 Victims' Services.

14 (3) Notification to the victim advocate on behalf of the
15 victim for personal injury crimes if the offender is
16 sentenced to a State correctional institution.

17 * * *

18 Section 4. Section 301(c) of the act is amended and the
19 section is amended by adding a subsection to read:

20 Section 301. Office.

21 * * *

22 (c) Service and employees.--The victim advocate shall
23 operate from the central office of the board with such clerical,
24 technical and professional staff as may be available within the
25 budget of the board. The compensation of employees of the office
26 shall be set by the Executive Board. The home address of an
27 employee of the office may not be considered a public record
28 under the act of February 14, 2008 (P.L.6, No.3), known as the
29 Right-to-Know Law.

30 (d) Disclosure and confidentiality.--

1 (1) Each record pertaining to the victim in the
2 possession of or maintained by the office, including
3 information regarding a victim's current contact information
4 and any other information or record relating to the victim,
5 shall be private, confidential and privileged and the
6 property of the office and shall not be subject to the Right-
7 to-Know Law. A record of the office may not be subject to
8 subpoena or discovery, introduced into evidence in a judicial
9 or administrative proceeding or released to the inmate,
10 parolee or probationer.

11 (2) Unless a victim waives the privilege in a signed
12 writing prior to testimony or disclosure, an employee of the
13 office may not be competent nor permitted to testify or to
14 otherwise disclose confidential communications made to or by
15 the employee of the office. The privilege shall terminate
16 upon the death of the victim. Neither the employee of the
17 office nor the victim shall waive the privilege of
18 confidential communications by reporting facts of physical or
19 sexual assault under 23 Pa.C.S. Ch. 63 (relating to child
20 protective services), a Federal or State mandatory reporting
21 statute or a local mandatory reporting ordinance.

22 Section 5. Section 302(5) of the act is amended and the
23 section is amended by adding paragraphs to read:

24 Section 302. Powers and duties of victim advocate.

25 The victim advocate has the following powers and duties:

26 * * *

27 (5) [To act as a liaison with the victim notification
28 program director in the department to coordinate victim
29 notification and services for the department and the board.]

30 The victim advocate is authorized to address the interests of

1 all victims before the board, department or hearing examiner
2 concerning any issues determined appropriate by the victim
3 advocate.

4 (6) To ensure eligible victims are informed of the
5 Address Confidentiality Program under 23 Pa.C.S. Ch. 67
6 (relating to domestic and sexual violence victim address
7 confidentiality).

8 (7) To advocate for the interests of crime victims
9 generally, including the victims of crimes committed by
10 juveniles.

11 Section 6. Section 312(3) of the act is amended to read:

12 Section 312. Powers and duties of Office of Victims' Services.

13 The Office of Victims' Services, subject to approval of the
14 commission, has the following powers and duties:

15 * * *

16 (3) [To adopt, promulgate, amend and rescind suitable
17 rules and regulations to carry out the provisions and
18 purposes of Chapter 7. These regulations shall provide for
19 the approval of attorney fees for representation before the
20 Office of Victims' Services, a hearing examiner or before the
21 Commonwealth Court upon judicial review under section 705.
22 Awards of the attorney fees shall be in addition to awards
23 made to direct victims. Awards of attorney fees shall in no
24 case exceed 15% of the award to the direct victim or victims.
25 It shall be unlawful for an attorney to contract for or
26 receive any sum larger than the amount allowed. Regulations
27 under this paragraph shall include policies, procedures and
28 standards of review regarding claims for compensation;
29 approval or denial of claims, including contributory conduct
30 by direct victims; verification of information and documents;

1 prioritization of review; and all other matters related to
2 the processing.] To adopt, promulgate, amend and rescind
3 suitable regulations to carry out the provisions and purposes
4 of Chapter 7. The regulations shall provide for the
5 following:

6 (i) The approval of attorney fees for representation
7 before the Office of Victims' Services, a hearing
8 examiner or before Commonwealth Court upon judicial
9 review under section 705. Awards of the attorney fees
10 shall be in addition to awards made to direct victims or
11 claimants. Awards of attorney fees may not exceed 15% of
12 the award to the direct victim or claimants. It shall be
13 unlawful for an attorney to contract for or receive a sum
14 larger than the amount allowed under this subparagraph.

15 (ii) Policies, procedures and standards of review
16 regarding claims for compensation.

17 (iii) Approval or denial of claims, including
18 contributory conduct by direct victims.

19 (iv) Verification of information and documents.

20 (v) Prioritization of review.

21 (vi) All other matters related to the processing of
22 claims.

23 * * *

24 Section 7. Section 701(a) of the act is amended by adding
25 paragraphs to read:

26 Section 701. Persons eligible for compensation.

27 (a) General rule.--Except as otherwise provided in this act,
28 the following persons shall be eligible for compensation:

29 * * *

30 (7) Hospitals or other licensed health care providers

1 under section 707(h).

2 (8) A person eligible for counseling under this chapter.

3 * * *

4 Section 8. Sections 702(b), (b.1) and (c), 703, 704(b) (1)
5 and (e) and 706(a) (1) and (b) of the act are amended to read:

6 Section 702. Filing of claims for compensation.

7 * * *

8 (b) Time.--

9 (1) Except as set forth in paragraph (2), a claim must
10 be filed not later than [two] three years after the discovery
11 of the occurrence of the crime upon which the claim is based
12 or not later than [two] three years after the death of the
13 direct victim or intervenor as a result of the crime or the
14 discovery and identification of the body of a murder victim.

15 (2) Exceptions shall be as follows:

16 (ii) If a direct victim is under 18 years of age at
17 the time of the occurrence of the crime and the alleged
18 offender is the direct victim's parent or a person
19 responsible for the direct victim's welfare, an
20 individual residing in the same home as the direct victim
21 or a paramour of the direct victim's parent, all of the
22 following shall apply:

23 (A) The limitation period under this subsection
24 is tolled until the direct victim reaches 21 years of
25 age.

26 (B) The limitation period shall run until the
27 later of:

28 (I) the end of the limitation period for the
29 offense as set forth in 42 Pa.C.S. Ch. 55 Subch.
30 C (relating to criminal proceedings); or

1 (II) the end of the limitation period under
2 paragraph (1).

3 (ii.1) If a direct victim is under 18 years of age
4 at the time of the occurrence of the crime and the direct
5 victim is seeking reimbursement for counseling services
6 only, all of the following shall apply:

7 (A) The limitation period under this subsection
8 is tolled until the direct victim reaches 21 years of
9 age.

10 (B) The limitation period shall run until the
11 later of:

12 (I) the end of the limitation period for the
13 offense as set forth in 42 Pa.C.S. Ch. 55 Subch.
14 C; or

15 (II) the end of the limitation period under
16 paragraph (1).

17 (iii) The Office of Victims' Services may find good
18 cause to accept a claim beyond the limitation period
19 under paragraph (1) if one of the following circumstances
20 existed at the time of the occurrence of the crime or the
21 discovery of the occurrence of the crime:

22 (A) The direct victim, intervenor or claimant
23 was mentally or physically incapacitated.

24 (B) The victim was a minor.

25 (C) There was a fear of retaliation.

26 (D) The occurrence of the crime was not readily
27 apparent.

28 (E) Other circumstances when good cause is shown
29 by the claimant.

30 (b.1) Returned claims.--If a claim has been filed but

1 subsequently returned to the claimant for correction or for
2 additional verification or information, the date the claim was
3 first received by the [bureau] Office of Victims' Services shall
4 be the permanent filing date for purposes of subsection (b). The
5 correction or additional verification or information must be
6 filed within a period of time established by the Office of
7 Victims' Services.

8 (c) Manner.--Claims must be filed with the [bureau] Office
9 of Victims' Services in person, by mail or by any electronic
10 means authorized by the Office of Victims' Services.

11 Section 703. Minimum allowable claim.

12 (a) General rule.--Except as set forth in subsection (b), no
13 award shall be made on a claim unless the claimant has incurred
14 an aggregate minimum out-of-pocket loss, loss of earnings or
15 loss of support of [~~\$100~~] \$50.

16 (b) Exception.--Subsection (a) shall not apply if the direct
17 victim or claimant was 60 years of age or older at the time the
18 crime occurred.

19 Section 704. Determination of claims.

20 * * *

21 (b) Review.--

22 (1) The Office of Victims' Services shall review the
23 claim and all supporting documents and investigate the
24 validity of the claim. The investigation shall include an
25 examination of police, court and official records and reports
26 concerning the crime and may include an examination of
27 medical and hospital reports relating to the injury upon
28 which the claim is based. The Office of Victims' Services may
29 not request or review counseling notes of mental health
30 service providers. The Office of Victims' Services shall

1 request an assessment from the mental health service provider
2 as to the extent the service provided is needed as a direct
3 result of the crime.

4 * * *

5 (e) Records.--The Office of Victims' Services shall maintain
6 complete records and histories on all claims filed, supplemental
7 awards paid to claimants, claims status and third-party
8 entitlements and recoveries in accordance with the commission's
9 established records retention schedule.

10 Section 706. Emergency awards.

11 (a) Authorization.--Notwithstanding the provisions of
12 sections 704 and 707, if it appears to the Office of Victims'
13 Services that the claim is one with respect to which an award
14 probably will be made and that undue hardship will result to the
15 claimant if immediate payment is not made, the Office of
16 Victims' Services may make an emergency award to the claimant
17 pending a final decision in the case. The following shall apply:

18 (1) The total amount of the emergency award shall not
19 exceed [\$1,500 per claim or at] a rate set by the Office of
20 Victims' Services.

21 * * *

22 (b) Reconsideration.--The Office of Victims' Services may
23 reconsider an emergency award at any time prior to the final
24 decision in the case and increase previous orders for emergency
25 compensation up to the overall limit of [\$1,500 per claim or at]
26 a rate set by the Office of Victims' Services.

27 * * *

28 Section 9. Section 707(a)(3), (a.1)(2), (b)(1), (2), (4) and
29 (4.1), (f)(1) and (3) and (g) of the act are amended and the
30 section is amended by adding a subsection to read:

1 Section 707. Awards.

2 (a) Requirements.--No award shall be made unless it is
3 determined by a preponderance of the evidence that:

4 * * *

5 (3) The crime was promptly reported to the proper
6 authorities. In no case may an award be made if the record
7 shows that the report was made more than 72 hours after the
8 discovery of the occurrence of the crime unless:

9 (i) the victim is under 18 years of age at the time
10 of the occurrence of the crime and the alleged offender
11 is the victim's parent or a person responsible for the
12 victim's welfare, an individual residing in the same home
13 as the victim or a paramour of the victim's parent; or

14 (ii) the Office of Victims' Services finds the delay
15 to have been justified, consistent with bureau
16 regulations.

17 * * *

18 (a.1) Protection from abuse.--A claimant who satisfies the
19 eligibility requirements of subsection (a)(1), (2) and (4) may
20 satisfy the eligibility requirement under subsection (a)(3) for
21 reporting a crime to the proper authorities by commencing an
22 action brought in accordance with 23 Pa.C.S. Ch. 61 (relating to
23 protection from abuse) and as provided for in the Pennsylvania
24 Rules of Civil Procedure. In no case may an award be made if the
25 record shows that the petition was:

26 * * *

27 (2) Filed more than 72 hours after the discovery of the
28 occurrence of the criminal conduct leading to the
29 commencement of the action, unless:

30 (i) the victim is under 18 years of age at the time

1 of the occurrence of the criminal conduct and the alleged
2 offender is the victim's parent or a person responsible
3 for the victim's welfare, an individual residing in the
4 same home as the victim or a paramour of the victim's
5 parent; or

6 (ii) the Office of [Victim] Victims' Services finds
7 the delay to have been justified, consistent with
8 regulations of the Office of [Victim] Victims' Services.

9 (a.2) Sexual violence and intimidation orders.--A claimant
10 who satisfies the eligibility requirements of subsection (a) (1),
11 (2) and (4) may satisfy the eligibility requirement under
12 subsection (a) (3) for reporting a crime to the proper
13 authorities by commencing an action brought in accordance with
14 42 Pa.C.S. Ch. 62A (relating to protection of victims of sexual
15 violence or intimidation). An award may not be made if the
16 record shows that the petition was:

17 (1) Withdrawn, unless the Office of Victims' Services
18 finds the withdrawal to have been justified, consistent with
19 regulations of the Office of Victims' Services.

20 (2) Filed more than 72 hours after the discovery of the
21 occurrence of the criminal conduct leading to the
22 commencement of the action, except if:

23 (i) the victim is under 18 years of age at the time
24 of the occurrence of the criminal conduct and the alleged
25 offender is the victim's parent or a person responsible
26 for the victim's welfare, an individual residing in the
27 same home as the victim or a paramour of the victim's
28 parent; or

29 (ii) the Office of Victims' Services finds the delay
30 to have been justified, consistent with regulations of

1 the Office of Victims' Services.

2 (b) Amount.--

3 (1) Any award made under this chapter shall be
4 contingent upon funds being available and be in an amount not
5 exceeding out-of-pocket loss, together with loss of past,
6 present or future earnings or support resulting from such
7 injury. In no case shall the total amount of an award exceed
8 \$35,000 except for payment of the following:

9 (i) counseling, the maximum amount of which shall be
10 in accordance with paragraph (4.1);

11 (ii) forensic rape examination and medications
12 directly related to the sexual assault or rape, the
13 amount of which shall not exceed \$1,000; or

14 (iii) reasonable and necessary costs of cleaning the
15 crime scene of a private residence or privately owned
16 motor vehicle, the amount of which shall not exceed \$500.

17 (2) An award made for loss of earnings or loss of
18 support shall, unless reduced pursuant to other provisions of
19 this chapter, be in an amount equal to the actual loss
20 sustained. The following shall apply:

21 (i) No such award shall exceed the average weekly
22 wage for all persons covered by the act of December 5,
23 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the
24 Unemployment Compensation Law, in this Commonwealth as
25 determined annually by the Department of Labor and
26 Industry for each week of lost earnings or support.

27 (ii) Except as set forth in subparagraph (iii), the
28 aggregate award for the loss shall not exceed \$15,000.

29 (iii) In the case of death of a direct victim or
30 intervenor, the aggregate award shall not exceed \$20,000.

1 * * *

2 (4) An award for counseling performed by or under the
3 supervision of a psychiatrist, psychologist, licensed
4 professional counselor or licensed social worker and
5 reimbursement of associated transportation costs, subject to
6 the provisions of paragraph (4.1), may be made to:

7 (i) a direct victim;

8 (ii) an individual responsible for the direct
9 victim's welfare;

10 (iii) an intervenor or individual who is physically
11 present at the crime scene and witnesses a violent crime;

12 (iv) in the case of a homicide, an individual who
13 discovers the body;

14 (v) anyone related to the direct victim within the
15 second degree of consanguinity or affinity;

16 (vi) anyone maintaining a common-law relationship
17 prior to January 2, 2005, with the direct victim;

18 (vii) anyone residing in the same household with the
19 direct victim; or

20 (viii) anyone engaged to be married to the direct
21 victim.

22 (4.1) In the case of an award made pursuant to paragraph
23 (4), the following shall apply:

24 (i) The amount of an award under paragraph (4) (i)
25 shall not exceed \$5,000 where the direct victim is an
26 adult and shall not exceed \$10,000 where the direct
27 victim is a minor. A minor who is a direct victim of a
28 sexual offense may request that the minor's primary
29 insurance carrier not be billed for counseling services
30 if the policy is held or administered by either the

1 alleged perpetrator of the crime against the direct
2 victim or an individual responsible for the minor's
3 welfare that is not supportive of counseling services.

4 (ii) The amount of an award under paragraph (4)(ii),
5 (v), (vi), (vii) or (viii) shall not exceed \$2,500 except
6 in the case of a homicide whereby the amount of this
7 award shall not exceed \$5,000.

8 (iii) The amount of an award under paragraph (4)
9 (iii) or (iv) shall not exceed \$1,500.

10 * * *

11 (f) Direct victim responsibility.--

12 (1) Except as set forth in paragraphs (2) and (3), in
13 determining the amount of an award, the Office of Victims'
14 Services shall determine whether the direct victim or
15 intervenor, because of conduct, contributed to the infliction
16 of the injury. The Office of Victims' Services [shall] may
17 reduce the amount or deny the claim altogether in accordance
18 with the determination.

19 * * *

20 (3) If the crime involved is a homicide, the conduct of
21 the direct victim shall not be considered for claims by
22 eligible claimants for counseling[.] and funeral expenses.
23 Funeral expenses eligibility, if the conduct of the direct
24 victim is a factor, shall be dependent upon the availability
25 of funding.

26 (g) Intervenor responsibility.--In determining the amount of
27 an award to an intervenor, the Office of Victims' Services [may]
28 shall consider whether the intervenor, because of conduct,
29 contributed to the infliction of the injury. The Office of
30 Victims' Services [shall] may reduce the amount or deny the

1 claim altogether in accordance with the determination.

2 * * *

3 Section 10. Sections 709(a) and 901 of the act are amended
4 to read:

5 Section 709. Confidentiality of records.

6 (a) General rule.--All reports, records or other information
7 obtained or produced by the [bureau] Office of Victims' Services
8 during the processing or investigation of a claim shall be
9 confidential and privileged, shall not be subject to subpoena or
10 discovery, shall be used for no purpose other than the
11 processing of a claim and, except as otherwise provided by law
12 or as provided in this section, shall not be introduced into
13 evidence in any judicial or administrative proceeding.

14 * * *

15 Section 901. Eligibility of victims.

16 A victim has the rights and is eligible for the services
17 under sections 201 and 902 only if the victim reported the crime
18 to law enforcement authorities without unreasonable delay after
19 [its] the occurrence of the crime or the discovery of the
20 occurrence of the crime, unless the victim had a reasonable
21 excuse not to do so.

22 Section 11. Section 1101(b) of the act is amended by adding
23 a paragraph to read:

24 Section 1101. Costs.

25 * * *

26 (b) Disposition.--

27 * * *

28 (3) Beginning July 1, 2018 2019, the special nonlapsing <--
29 funds established under paragraphs (1) and (2) shall be
30 merged into a single special nonlapsing fund, known as the

1 Crime Victim Services and Compensation Fund. The fund shall
2 be used by the Office of Victims' Services for payment to
3 claimants, victim-witness services and technical assistance.
4 Costs imposed under subsection (a) shall be paid into the
5 fund.

6 * * *

7 Section 12. Sections 1102(a), (b), (c) and (d) and 1301(b)
8 of the act are amended to read:

9 Section 1102. Costs for offender supervision programs.

10 (a) County fund.--The county treasurer of each county shall
11 establish and administer a [county offender supervision fund]
12 County Supervision Fee Restricted Receipts Account consisting of
13 the fees collected under this section. The county treasurer
14 shall disperse money from this [fund] account only at the
15 discretion of the president judge of the court of common pleas.
16 The money in this [fund] account shall be used to pay the
17 salaries and employee benefits of all probation and parole
18 personnel employed by the county probation and parole department
19 and the operational expenses of that department. Money from this
20 [fund] account shall be used to supplement Federal, State or
21 county appropriations for the county adult probation and parole
22 department. The president judge shall by August 31 provide the
23 [board] commission with an annual statement [which] that fully
24 reflects all collections deposited into and expenditures from
25 the [offender supervision fund] County Supervision Fee
26 Restricted Receipts Account for the preceding fiscal year. The
27 [board] commission shall promulgate regulations to provide for
28 the permanent administration of this program, as advised by the
29 County Adult Probation and Parole Advisory Committee.

30 (b) State fund.--There is established a State Offender

1 Supervision Fund to be administered by the board and comprised
2 of the supervision fees collected by the board under [this
3 section] subsection (d). The money in this fund shall be used to
4 supplement the Federal or State funds appropriated for the
5 improvement of [adult probation services] State parole
6 supervision.

7 (c) Court.--The court shall impose as a condition of
8 supervision a monthly supervision fee of at least \$25 on any
9 offender placed on probation, parole, accelerated rehabilitative
10 disposition, probation without verdict or intermediate
11 punishment unless the court finds that the fee should be
12 reduced, waived or deferred based on the offender's present
13 inability to pay. [Of the fee collected, 50%] All of the fees
14 shall be deposited into the County [Offender Supervision Fund]
15 Supervision Fee Restricted Receipts Account established in each
16 county pursuant to this section[, and the remaining 50% shall be
17 deposited into the State Offender Supervision Fund established
18 pursuant to this section]. All funds within the account shall be
19 accounted for consistent with the budget, accounting,
20 contracting, procurement, audit, salary board and other relevant
21 provisions of the act of August 9, 1955 (P.L.323, No.130), known
22 as The County Code, and may be subject to audit by the Auditor
23 General under section 401(d) of the act of April 9, 1929
24 (P.L.343, No.176), known as The Fiscal Code.

25 (d) Board.--The board shall impose as a condition of
26 supervision a monthly supervision fee of at least \$25 on any
27 offender under the board's supervision unless the board finds
28 that such fee should be reduced, waived or deferred based on the
29 offender's present inability to pay. All fees collected shall be
30 deposited into the State Offender Supervision Fund [established

1 under subsection (b)].

2 * * *

3 Section 1301. Subrogation.

4 * * *

5 (b) Excess.--If an amount greater than that paid under
6 Chapter 7 is recovered and collected in such an action, the
7 Commonwealth shall pay the balance to the claimant. The Attorney
8 General shall enforce any subrogation. A claimant who fails to
9 notify the Office of Victims' Services of the receipt of funds
10 from any other claim or award arising out of the crime shall
11 forfeit and pay to the Commonwealth an amount equal to all
12 awards paid by the [bureau] Office of Victims' Services to the
13 claimant or on the claimant's behalf.

14 Section 13. This act shall take effect in 60 days.